

AGREEMENT**MD 586 / MD 911 Land Exchange**

by and among

**Maryland State Highway Administration,
Mayor and Council of Rockville, Maryland**

And

**Westchester at Town Center LP (f/k/a Tishman Speyer
Archstone-Smith Westchester
at Town Center, L. P.)**

THIS AGREEMENT, effective this _____ day of _____, 20____, by and among the Maryland State Highway Administration of the Maryland Department of Transportation, acting for and on behalf of the State of Maryland, hereinafter called "**SHA**", Mayor and Council of Rockville, a body corporate and politic, hereinafter called "**CITY**," and Westchester at Town Center LP, a Delaware limited partnership, hereinafter called "**ARCHSTONE**".

WHEREAS, **ARCHSTONE** owns certain property in Rockville, Maryland at the intersection of Veirs Mill Road (MD Route 586) and First Street (MD Route 911) pursuant to a deed recorded among the Land Records of Montgomery County, Maryland, in Liber 35023, folio 394, hereinafter called the "**ARCHSTONE PROPERTY**"; and

WHEREAS, the **SHA** is the owner of certain property located along the west side of First Street (MD Route 911) and adjacent to the **ARCHSTONE PROPERTY** and known as Parcels 1 and 2 in Montgomery County, Maryland; Parcel 1 contains approximately 8,565 square feet or 0.200 acres of land, more or less, pursuant to a deed recorded among the Land Records of Montgomery County, Maryland, in Liber 5331, folio 658, and Parcel 2 contains approximately 21,006 square feet or 0.482 acres of land, more or less, pursuant to a deed recorded among the Land Records of Montgomery County, Maryland, in Liber 5408, folio 46, which property shall be conveyed to **ARCHSTONE**, hereinafter collectively called the "**SHA CONVEYANCE PROPERTY**"; and

WHEREAS, the **SHA CONVEYANCE PROPERTY** is also more fully described in a description of the **SHA CONVEYANCE PROPERTY** attached hereto as "**EXHIBIT A**" and made a part hereof; and

WHEREAS, the **SHA CONVEYANCE PROPERTY** is more fully depicted on State Highway Administration Plat No. 57989, dated December 11, 2008 and revised August 21, 2009 ("SHA Plat No. 57989"), identified thereon as "formerly John W. Norris, et ux., Item No. 66592" and subsequently identified as Parcel 1 and "formerly John W. Norris, et al., Item No. 66593" and subsequently identified as Parcel 2, attached hereto as "**EXHIBIT B**" and made a part hereof; and

WHEREAS, the SHA, through SHA Permit No. 3M-142-05 issued June 13, 2005 and revised June 9, 2008, attached hereto as "EXHIBIT C" and made a part hereof (the "Original Permit"), permitted improvements on certain SHA property, including but not limited to the SHA CONVEYANCE PROPERTY, that were constructed by Archstone on the SHA CONVEYANCE PROPERTY pursuant to Special Provision Number 8 thereof; and

WHEREAS, ARCHSTONE will convey to SHA a portion of the ARCHSTONE PROPERTY located along the south side of Veirs Mill Road (MD Route 586) in Montgomery County, Maryland, containing approximately 15,890 square feet or 0.365 acres of land, more or less, hereinafter called the "**ARCHSTONE DONATION PROPERTY**"; and

WHEREAS, the **ARCHSTONE DONATION PROPERTY** is more fully described and depicted on State Highway Administration Plat No. 57988, dated December 11, 2008, and revised August 21, 2009 ("SHA Plat No. 57988"), and identified thereon as Item No. 102166, attached hereto as "EXHIBIT D", and made a part hereof; and

WHEREAS, the **ARCHSTONE DONATION PROPERTY** is subject to a 10 foot wide sanitary sewer easement for the benefit of the CITY pursuant to an instrument dated March 31, 1945 and recorded among the Land Records in Liber 976, folio 129 (the "1945 Easement"); a 15 foot wide water and sewer easement for the benefit of the CITY pursuant to an instrument dated December 9, 1963 and recorded among the Land Records in Liber 3166, folio 516 (the "1963 Easement"); an easement for water service pursuant to an instrument dated September 15, 1989 and recorded among the Land Records in Liber 9239, folio 185 (the "1989 Easement"); and a water and sewer easement and right of way for the benefit of the City pursuant to an instrument dated July 20, 2006 and recorded among the Land Records in Liber 32789, folio 683 (the "2006 Easement"); and

WHEREAS, the **ARCHSTONE PROPERTY** is subject to a Stormwater Management Easement conveyed to the CITY by a Stormwater Management Easement Stormwater Management Inspection and Maintenance Agreement, dated July 20, 2006, by AMERITON Properties Incorporated, a Maryland corporation, unto Mayor and Council of Rockville and recorded among the land records of Montgomery County, Maryland, in Liber 32789, folio 692 which is depicted on "EXHIBIT D" attached hereto and identified thereon as Item No. 102165 (Parcel 'A'); and

WHEREAS, once ARCHSTONE and the CITY have fulfilled their respective responsibilities with respect to the SHA CONVEYANCE PROPERTY and the ARCHSTONE DONATION PROPERTY as described herein, SHA acknowledges it has an obligation to fulfill its obligations described herein; and

WHEREAS, ARCHSTONE, the CITY and SHA agree that the land exchanges will benefit the parties to this Agreement, are necessary accommodations for the traveling public, and promote the health, safety and general welfare of the citizens of the State of Maryland, Montgomery County and the City of Rockville.

NOW THEREFORE, THIS AGREEMENT WITNESSETH: that for and in consideration of the mutual covenants and premises between the parties hereto and in further consideration of the sum of One and 00/100 Dollars (\$1.00) paid by each party to each of the other parties, the adequacy and receipt of which is hereby acknowledged, the parties hereto agree as follows:

I. RELEASE OF SEWER AND WATER EASEMENT ALONG VEIRS MILL ROAD BY CITY

The CITY will release the 2006 Easement to the extent the 2006 Easement is located in the ARCHSTONE DONATION PROPERTY. Notwithstanding the release of the 2006 Easement, the CITY will continue to operate and maintain the existing water and sewer lines in their current location.

II. ARCHSTONE DONATION PROPERTY: TERMS WITH RESPECT TO EASEMENTS

ARCHSTONE will convey the ARCHSTONE DONATION PROPERTY to SHA subject to the existing easements that are more fully depicted on SHA Plat No. 57988 and identified thereon as "Ex. 15' Water and Sewer Esmt. L.3166 F.516 and Ex. 10' Sewer Esmt L.976 F.129 and Ex. Perpetual Esmt. for Water Service SRC Plat No. 51637", attached hereto as EXHIBIT D, and any and all existing operating sewer and water lines owned by the CITY. These existing sewer and water lines will remain in place following the conveyance to SHA of the ARCHSTONE DONATION PROPERTY.

III. PERMITS TO BE ISSUED BY SHA

Concurrent with the conveyance of the ARCHSTONE DONATION PROPERTY to SHA, the SHA will issue a new SHA Utility permit to the CITY (the "New Permit") authorizing the CITY to operate and maintain any and all existing CITY water and sewer lines located within the ARCHSTONE DONATION PROPERTY and any and all existing CITY water and sewer lines located within existing SHA Right of Way. The New Permit will supersede the Original Permit.

IV. EASEMENTS TO BE GRANTED BY SHA

Immediately and prior to the conveyance of the SHA CONVEYANCE PROPERTY to ARCHSTONE, the SHA will grant the CITY the following Perpetual Easements: (1) a Perpetual Easement for Sanitary Sewer (PARCEL A), (2) a Perpetual Easement for Drainage Facility, Ingress/Egress and Utilities (PARCEL B), and (3) a Perpetual Easement for Water (PARCEL C) that are more fully described in the description of the Perpetual Easements to be Conveyed by the State Roads Commission of the State Highway Administration, acting for and on behalf of the State of Maryland to the City of Rockville attached hereto as "EXHIBIT E" and more fully depicted on State Highway Administration Plat No. 58335, dated August 24, 2009 ("SHA Plat No. 58335"). The Perpetual Easements are also identified as a Perpetual Easement for Sanitary Sewer to the

City of Rockville (Parcel A), a Perpetual Easement for Drainage Facility, Ingress/Egress and Utilities to the City of Rockville (Parcel B), and a Perpetual Easement for Water to the City of Rockville (Parcel C), on "EXHIBIT F", which has been attached, so as to provide the CITY with easements for the following

- a. A Perpetual Easement for Sanitary Sewer; and
- b. A Perpetual Easement for Drainage Facility, Ingress/Egress and Utilities; and
- c. A Perpetual Easement for Water.

V. EASEMENTS TO BE GRANTED BY ARCHSTONE

- a. Immediately following the conveyance of the SHA CONVEYANCE PROPERTY to ARCHSTONE, ARCHSTONE will grant the SHA an easement across the ARCHSTONE PROPERTY to the existing Stormwater Management facility that is more fully depicted on SHA Plat No. 57988 and identified thereon as Item No. 102165 (Parcel B), a Perpetual Easement for Ingress / Egress, Drainage Facility and Utilities attached hereto as EXHIBIT D, for the right of Stormwater Management access and maintenance.
- b. Immediately following the conveyance of the SHA CONVEYANCE PROPERTY to ARCHSTONE, ARCHSTONE will grant the SHA an easement across the ARCHSTONE PROPERTY that is more fully depicted on SHA Plat No. 57988 and identified thereon as Item No. 102165 (Parcel A) as a Perpetual Easement for Underground Drainage Facility (Existing Stormwater Management Easement – L.32789 F. 692) attached hereto as EXHIBIT D allowing the SHA to access the existing Stormwater Management facility
- c. Immediately following the conveyance of the SHA CONVEYANCE PROPERTY to ARCHSTONE, ARCHSTONE will grant the CITY an easement across the ARCHSTONE PROPERTY that is more fully depicted on SHA Plat No. 57988 and identified thereon as Item No. 102165 (Parcel B) , a Perpetual Easement for Ingress / Egress, Drainage Facility and Utilities attached hereto as EXHIBIT D, for access to the Stormwater Management facility.

VI. SHA CONVEYANCE PROPERTY: TERMS AND CONDITIONS TO BE INCLUDED IN DEED

- a. SHA will convey the SHA CONVEYANCE PROPERTY to ARCHSTONE subject to any and all existing utility easements and any and all existing ingress/egress easements granted by SHA to the CITY prior to the conveyance as shown on EXHIBIT F.
- b. SHA will reserve an easement with respect to any and all existing SHA utilities located on or serving the SHA CONVEYANCE PROPERTY that is more fully depicted on SHA Plat No. 57989 and identified thereon as a Perpetual Easement for Drainage Facility and Utilities (to be retained by SHA) and further described by

Metes and Bounds table for Perpetual Easement to be retained by SHA (Parcel 'A'), attached hereto as EXHIBIT B.

VII. RECORDING ORDER OF DOCUMENTS

All documents and funds to be delivered pursuant to this Agreement shall be deposited with CHICAGO TITLE INSURANCE COMPANY (the "Escrow Agent") to be held in escrow until all parties hereto have authorized their release in writing. Upon receipt of written authorization to release documents, the Escrow Agent shall deliver the purchase funds to SHA and shall record the documents delivered pursuant to this Agreement in the following order:

- a. The easements from the SHA to the CITY contemplated by Section IV.
- b. The deed to the SHA CONVEYANCE PROPERTY.
- c. The easements granted from ARCHSTONE to the SHA as contemplated by Section V.
- d. The easement granted from ARCHSTONE to the CITY as contemplated by Section V.
- e. The Partial Release of Water and Sewer Easements by the City of Rockville thereby releasing the 2006 Easement.
- f. The deed conveying the ARCHSTONE DONATION PROPERTY.

VIII. BOARD OF PUBLIC WORKS APPROVAL

The conveyance of the SHA CONVEYANCE PROPERTY is contingent upon the approval and consent of the Board of Public Works.

VIX. MAYOR AND CITY COUNCIL APPROVAL

The Partial Release of Water and Sewer Easement is contingent upon the approval and consent of the Mayor and Council of Rockville.

X. PRIORITY OF CONVEYANCE

The conveyance of the SHA CONVEYANCE PROPERTY to ARCHSTONE will be deemed to have occurred first in time, first in right, regardless of the actual date of recordation of the deed conveying the SHA CONVEYANCE PROPERTY to ARCHSTONE or the deed conveying the ARCHSTONE DONATION PROPERTY to the SHA.

XI. RIGHT OF SHA TO TAKE REMEDIAL MEASURES IN THE EVENT OF FAILURE OF ROADWAY DRAINAGE

If, in the reasonable discretion of the SHA, a failure related to the roadway drainage of First Street (MD Route 911) occurs due to a failure by ARCHSTONE to maintain the privately owned stormwater management system, the SHA will notify ARCHSTONE and ARCHSTONE will take immediate action to remedy said failure. If ARCHSTONE fails to remedy said failure related to the roadway drainage of First Street (MD Route 911) in a timely matter, the SHA has the right to take immediate action to remedy said failure related to the roadway drainage of First Street (MD Route 911) and invoice ARCHSTONE for the reimbursement of reasonable expenses associated with the remedial actions taken by the SHA. For purposes of this Agreement and specifically this Section XI, a failure of ARCHSTONE to maintain the privately owned stormwater management system shall mean that the free flow of water has been impeded or a blockage has occurred within the privately owned and maintained stormwater management system that causes flooding within the public streets of Veirs Mill Road (MD Route 586) and First Street (MD Route 911) that are immediately adjacent to ARCHSTONE PROPERTY. The privately owned and maintained system is defined as follows: Beginning immediately after public storm drain structure number 4 and flow of water continuing in the direction of structure number 9 (the "downstream pipe") and terminating at public storm drain structure number 2 (the "Limit of Privately Owned and Maintained Stormwater Management System"). ARCHSTONE shall not be liable for any flooding due to matters beyond the Limits of the Privately Owned and Maintained Stormwater Management System. Please see attached "EXHIBIT G" for a graphic depiction of the distinction between public and private systems.

The full and final payment of any and all invoices provided to ARCHSTONE related to the remedial actions taken by the SHA to address a failure related to the roadway drainage of First Street (MD Route 911) will be made within thirty (30) days of receipt of said invoices unless otherwise agreed upon, in writing, by ARCHSTONE and SHA.

XII. ACKNOWLEDGMENT OF EASEMENT BY CITY

The CITY acknowledges that ARCHSTONE is granting the SHA an easement subject to the Stormwater Management Easement to the CITY, dated July 20, 2006, and recorded among the Land Records of Montgomery County in Liber 32789, folio 692.

XIII. CONSIDERATION

- a. In consideration for the conveyance by the SHA to ARCHSTONE of the SHA CONVEYANCE PROPERTY, ARCHSTONE will pay the amount of Ninety-Three Thousand Thirty-One and 00/100 Dollars (\$93,031.00) to SHA on the actual date of the closing.

- b. In consideration for the conveyance by ARCHSTONE to the SHA of the ARCHSTONE DONATION PROPERTY, the SHA will pay no consideration to ARCHSTONE.

XIV. NOTICES AND COMMUNICATIONS

Notices and communications required under the terms of this Agreement shall be made or sent to the following:

Addressed in the case of the SHA to:

Mr. Steven Foster, Chief
Engineering Access Permits Division
State Highway Administration
Mail Stop C-302
707 N. Calvert Street
Baltimore MD 21202
Phone: (410)-545-5601
Fax: (410)-209-5026
E-mail: sfoster1@sha.state.md.us

With a copy to:
Mr. E. Glenn Klaverweiden
Agreements Coordinator
State Highway Administration
Mail Stop C-502
707 N. Calvert Street
Baltimore MD 21202
Phone: (410) 545-5677
Fax: (410) 209-5025
E-mail: gklaverweiden@sha.state.md.us

B. If to CITY:

1. Mayor and Council of Rockville
Rockville City Hall
111 Maryland Avenue
Rockville, Maryland 20850
PHONE: 240-314-5000

With copy to:
Marcy Waxman
Assistant City Attorney
111 Maryland Avenue
Rockville, Maryland 20850
PHONE: (240) 314-8150
Email: MWaxman@rockvillemd.gov

C. If to ARCHSTONE:

1. Jeffrey W. Harris, Vice President
Archstone
2345 Crystal Drive
Suite 1100
Arlington, Virginia 22202
PHONE: 703-399-3533
FAX: 703-399-3554
Email: JHarris@archstonemail.com

With copy to:
Thomas S. Reif, Associate General Counsel
c/o Archstone
9200 E. Panorama Circle
Englewood, Colorado 80112
PHONE: 303-792-8113
FAX: 303-648-6110
Email: Treif@archstonemail.com

D. If to Escrow Agent:

Chicago Title Insurance Company
700 South Flower Street, Suite 920
Los Angeles, California 90017
Attention: Marley Harrill
PHONE: 213-488-4348
FAX: 213-891-0834
Email: harrillm@ctt.com

XV. GENERAL PROVISIONS

- A. This Agreement shall inure to and be binding upon ARCHSTONE, its agents, successors and assigns.

- B. This Agreement shall inure to and be binding upon the SHA, its agents, successors and assigns.
- C. This Agreement shall inure to and be binding upon the CITY, its agents, successors and assigns.
- D. If SHA is delayed, hindered or prevented from performing any act or thing required to be performed pursuant to the terms of this Agreement because of budgetary constraints, strikes, lockouts, casualties, acts of God, labor troubles, material shortages, riots, insurrection, war or other causes beyond its reasonable control, then the performance of such act or thing shall be excused for the period of delay and the time for performance of such act or thing shall be excused for the period of delay and the time for performance of any act or thing shall be extended for a period equivalent to the period of such delay.
- E. This Agreement and the rights and responsibilities of the parties hereto shall be determined in accordance with Maryland law.
- F. The recitals (WHEREAS) clauses at the beginning of this Agreement are incorporated herein as substantive provisions of this Agreement.
- G. The SHA and the CITY individually agree that neither will have any claims or causes of action against any disclosed or undisclosed, direct or indirect member, partner, principal, parent, subsidiary or other affiliate of ARCHSTONE (the "Protected Affiliates"), or any officer, director, manager, employee, trustee or shareholder of ARCHSTONE or any of the Protected Affiliates (together with the Protected Affiliates, the "Protected Parties"), arising out of or in connection with this Agreement or the transactions contemplated by this Agreement. The SHA and the CITY further agree not to sue or otherwise seek to enforce any personal obligation of ARCHSTONE against any of the Protected Parties with respect to any matters arising out of or in connection with this Agreement or the transactions contemplated by this Agreement.
- H. Counterparts. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument and any of the parties or signatories hereby may execute this Agreement by signing any such counterpart. The parties hereto may execute and deliver this Agreement by forwarding facsimile or other means of copies of this Agreement showing execution by the parties sending the same (including emailing a "PDF" copy), and the parties

agree and intend that such signature shall have the same effect as an original signature, that the parties shall be bound by such means of execution and delivery, and that the parties hereby waive any defense to validity based on any such copies or signatures.

[THIS PORTION OF THE PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper and duly authorized officers on the day and year first written above.

**MARYLAND STATE HIGHWAY
ADMINISTRATION**

WITNESS

BY: _____ (SEAL)

Neil J. Pedersen
State Highway Administrator

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

RECOMMENDED FOR APPROVAL:

Assistant Attorney General

Doug Simmons
Deputy Administrator/Chief Engineer
for Planning, Engineering, Real Estate &
Environment

[THIS PORTION OF THE PAGE INTENTIONALLY LEFT BLANK.]

WESTCHESTER AT TOWN CENTER LP
a Delaware limited partnership

ATTEST:

BY: _____ (Seal)
Name:
Title:

STATE OF _____
COUNTY OF _____

SS:

I hereby certify that on this _____ day of _____, 20__, before me, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, who acknowledged that _____ executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal,

Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]

[THIS PORTION OF THE PAGE INTENTIONALLY LEFT BLANK.]

WITNESS/ATTEST:

**MAYOR AND COUNCIL OF ROCKVILLE,
a body corporate and politic**

Claire F. Funkhouser, City Clerk

By: _____ [SEAL]
Scott Ullery, City Manager

* * *

STATE OF MARYLAND

*

MONTGOMERY COUNTY

*

to wit:

*

I HEREBY CERTIFY that on this _____ day of _____, 20____, before me, the undersigned officer, personally appeared Scott Ullery, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and who acknowledged him to be the City Manager of the Mayor and Council of Rockville, a Maryland municipal corporation, and that Scott Ullery, as City Manager being authorized so to do, executed the foregoing Agreement on behalf of the municipal corporation for the purposes therein contained, by signing the name of the municipal corporation by himself as City Manager.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]

EXHIBIT "A"

ATTACH A

To MD 586 / MD 911 Land Exchange Agreement

**RIGHT OF WAY TO BE CONVEYED
BY THE
STATE HIGHWAY ADMINISTRATION –
STATE ROADS COMMISSION
OF MARYLAND
TO
WESTCHESTER AT TOWN CENTER LP
(formerly know as TISHMAN SPEYER ARCHSTONE-SMITH
WESTCHESTER AT TOWN CENTER, L.P)**


RIGHT OF WAY PROJECT No.: M 808-001-371

RIGHT OF WAY PROJECT: Viers Mill Road – MD Route 586 from MD
Route 355 to MD Route 28

ITEMS Nos.: 66592 & 66593

.....


THE GRANTORS DO HEREBY GRANT, Transfer, Convey and
Quitclaim unto Westchester At Town Center LP all right, title and interest of the
Grantor in and to all of **PARCEL ONE and PARCEL TWO**, together with the
appurtenances thereto belonging or in anywise appertaining to the parcels of land
situate, lying and being in Montgomery County, Maryland, as shown shaded thus:

 on the State Highway Administration – State Roads Commission of
Maryland Plat Numbered **57989**, filed for record with and electronically recorded by
the Maryland State Archives, being more particularly described in two (2) parcels as
follows:

PARCEL ONE:

BEGINNING FOR THE FIRST (1st) at a point situated 61.17 feet measured at right angles to the right of station 14+39.16 of the Base Line of Right of Way of First Street – MD Route 911, as delineated on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives, said point of beginning also being at the intersection of the westerly Right of Way Line of the State Highway Administration – State Roads Commission of Maryland, (SHA), hereby established for the purpose of this grant and a line of division previously established as the southerly Right of Way Line of the State Highway Administration – State Roads Commission of Maryland, as delineated on the said SHA-SRC Plats numbered **45286 (Rev. 4-11-1978)** and **46856 (Rev. 5-11-1979)**, filed for record with and electronically recorded by the Maryland State Archives, said line of division being of a deed dated June 4, 1979 from John W. Norris, et ux to The State of Maryland to the use of The State Highway Administration of the Department of Transportation recorded among the Land Records of Montgomery County, Maryland in Liber 5331 at Folio 658, said point also lying at the southwesterly end of the easterly or South 16°51'50" West, 40.00 foot line of Parcel "A", as delineated on a Plat of Subdivision entitled "Parcels 'A' & 'B', First Street Addition to Rockville" and recorded among the Land Records of Montgomery County, Maryland as **Plat No. 23189**; thence running and binding on the outline of **PARCEL ONE**, as delineated on the said SHA-SRC Plat Numbered 57989, and running and binding on the aforesaid line of

division and previously established southerly Right of Way Line of State Highway Administration – State Roads Commission of Maryland Plats numbered **45286 (Rev. 4-11-1978)** and **46856 (Rev. 5-11-1979)** and running in, through, over and across said Parcel 'A', the following four (4) courses, viz: (1) North 73°45'47" West, 181.87 feet, (2) South 71°16'28" West, 34.69 feet, (3) North 20°39'21" East, 60.06 feet, (4) South 73°45'47" East, 206.12 feet to a point on the westerly right of way line of First Street Maryland Route No. 911, said point situated 60.75 feet measured at right angles to the right of station 13+98.29 of the Base Line of Right of Way of MD Rte. 911 (First Street), as delineated on the State Highway Administration – State Roads Commission Plat Numbered. **57989**, hereby established for the purpose of this grant, thence running and binding on the aforesaid westerly Right of Way Line of State Highway Administration – State Roads Commission and with all of the aforementioned easterly Plat line of Parcel 'A' (5) South 16°51'50" West, 40.00 feet to the place of beginning.

CONTAINING: 8,565 sq. ft. or 0.200 of an acre plus or minus, being furthermore shown shaded thus:  on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives.

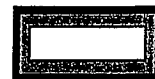
THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Perpetual Easement for Drainage Facility & Utilities to be retained by the SHA, containing 12,445 sq. ft. or 0.286 of an acre plus or minus, shown hatched

thus:



and designated as Parcel 'A' on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Perpetual Easement for Water to the City of Rockville shown shaded thus:



And designated as Parcel 'C' on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **58335**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Perpetual Easement for Sanitary Sewer to the City of Rockville shown shaded

thus:



and designated as Parcel 'A' on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **58335**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Denial of Access provisions of the State Highway Administration – State Roads Commission of Maryland, as shown on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives


BEING PART OF THE LAND which by deed dated June 4, 1979 was conveyed by John W. Norris, et ux to the State of Maryland to the use of the State Highway Administration of the Department of Transportation, recorded in Liber 5331 Folio 658, among the Land Records of Montgomery County, Maryland.


PARCEL TWO:

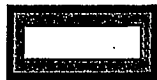
BEGINNING FOR THE SECOND (2nd) at a point situated 61.17 feet measured at right angles to the right of station 14+39.16 of the Base Line of First Street – MD Route 911, as delineated on State Highway Administration – State Roads Commission of Maryland Plat No. **57989**, filed for record with and electronically recorded by the Maryland State Archives, said point of beginning also being at the intersection of the westerly Right of Way Line of State Highway Administration – State Roads Commission of Maryland; (SHA), hereby established for the purpose of this grant and a line of division previously established as the southerly Right of Way Line of the State Highway Administration – State Roads Commission of Maryland as delineated on the SHA-SRC Plats numbered **45286 (Rev. 4-11-1978)** and **46856 (Rev. 5-11-1979)**, filed for record with and electronically recorded by the Maryland State Archives, said line of division being of a deed dated October 1, 1979 from John W. Norris, et al to The State of Maryland to the use of The State Highway Administration of the Department of Transportation recorded among the Land Records of Montgomery County, Maryland in Liber 5408 at Folio 46, said point also lying at the northeasterly end of the easterly or South 16°28'04" West, 22.18 foot line of Parcel "A", as delineated on a Plat of Subdivision entitled "Parcels 'A' & 'B', First


Street Addition to Rockville" and recorded among the Land Records of Montgomery County, Maryland as **Plat No. 23189**; thence running and binding on the outline of **PARCEL TWO**, as delineated on the said SRC Plat No. 57989, and running and binding on the aforesaid previously established westerly Right of Way Line of the State Highway Administration – State Roads Commission of Maryland Plats numbered **45286 (Rev. 4-11-1978)** and **46856 (Rev. 5-11-1979)** and with the easterly outline of Parcel 'A', the following five (5) courses, viz: (1) South 16°28'04" West, 22.18 feet, (2) South 23°04'34" West, 91.41 feet, (3) South 22°06'11" West, 124.88 feet, (4) South 28°14'19" West, 114.32 feet, (5) 59.26 feet along the arc of a curve to the right having a radius of 2,780.79 feet and a chord bearing and distance of South 24°30'19" West, 59.26 to a point situated 84.01 feet measured at right angles to the right of station 18+61.05 of the Base Line of Right of Way of First Street – MD Route 911, as delineated on the State Highway Administration – State Roads Commission of Maryland Plat numbered **46856 (Rev. 5-11-1979)**, filed for record with and electronically recorded by the Maryland State Archives, said point being at the intersection of the aforesaid westerly Right of Way Line of the State Highway Administration – State Roads Commission of Maryland and a line of division previously established as the southerly and westerly Right of Way Line of State Highway Administration – State Roads Commission of Maryland as delineated on the SHA-SRC Plat numbered **46856 (Rev. 5-11-1979)**, filed for record with and electronically recorded by the Maryland State Archives); thence running and binding on the aforesaid line of division and the previously established Right of Way Line of the State Highway Administration – State Roads Commission of Maryland, the


following three (3) courses, viz: (6) North 41°55'10" West, 41.24 feet; thence leaving said Parcel 'A' outline and running in, through, over and across Parcel 'A' and continuing with said Parcel Two outline (7) North 20°53'27" East, 387.15 feet, (8) South 73°45'47" East, 59.65 feet to the place of beginning.

CONTAINING: 21,006 sq. ft. or 0.482 of an acre plus or minus, being furthermore shown shaded thus:  on the State Highway Administration – State Roads Commission of Maryland plat numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Perpetual Easement for Drainage Facility & Utilities to be retained by the SHA, containing 12,445 sq. ft. or 0.286 of an acre plus or minus shown hatched thus:  and designated as Parcel 'A' on the State Highway Administration – State Roads Commission of Maryland plat numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Perpetual Easement for Water to the City of Rockville shown hatched thus:  And designated as Parcel 'C' on the State Highway Administration – State Roads Commission of Maryland plat numbered **58335**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Perpetual Easement for Sanitary Sewer to the City of Rockville shown hatched thus:  and designated as Parcel 'A' on the State Highway Administration – State Roads Commission of Maryland plat numbered **58335**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Perpetual Easement for Drainage Facility, Ingress & Egress and Utilities to the City of Rockville shown hatched thus:  and designated as Parcel 'B' on the State Highway Administration – State Roads Commission of Maryland plat numbered **58335**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Denial of Access provisions of the State Highway Administration – State Roads Commission of Maryland, as shown on the State Highway Administration – State Roads Commission of Maryland plat numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives.

BEING PART OF THE LAND which by deed dated October 1, 1979 was conveyed by John W. Norris, et al to the State of Maryland to the use of the State Highway Administration of the Department of Transportation, recorded in Liber 5408 Folio 046, among the Land Records of Montgomery County, Maryland.

The above description has been prepared under my responsible charge and is compliant with the regulations of the Maryland Minimum Standards of Practice for Professional Land Surveyors.



David Samuel Weber
29 SEP 2009

10-10-67

10-10-67

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

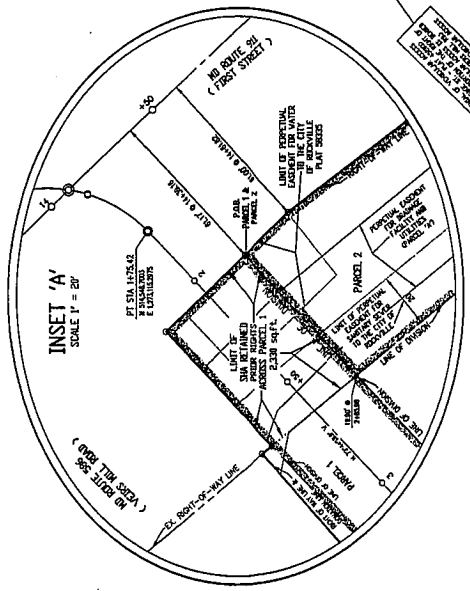
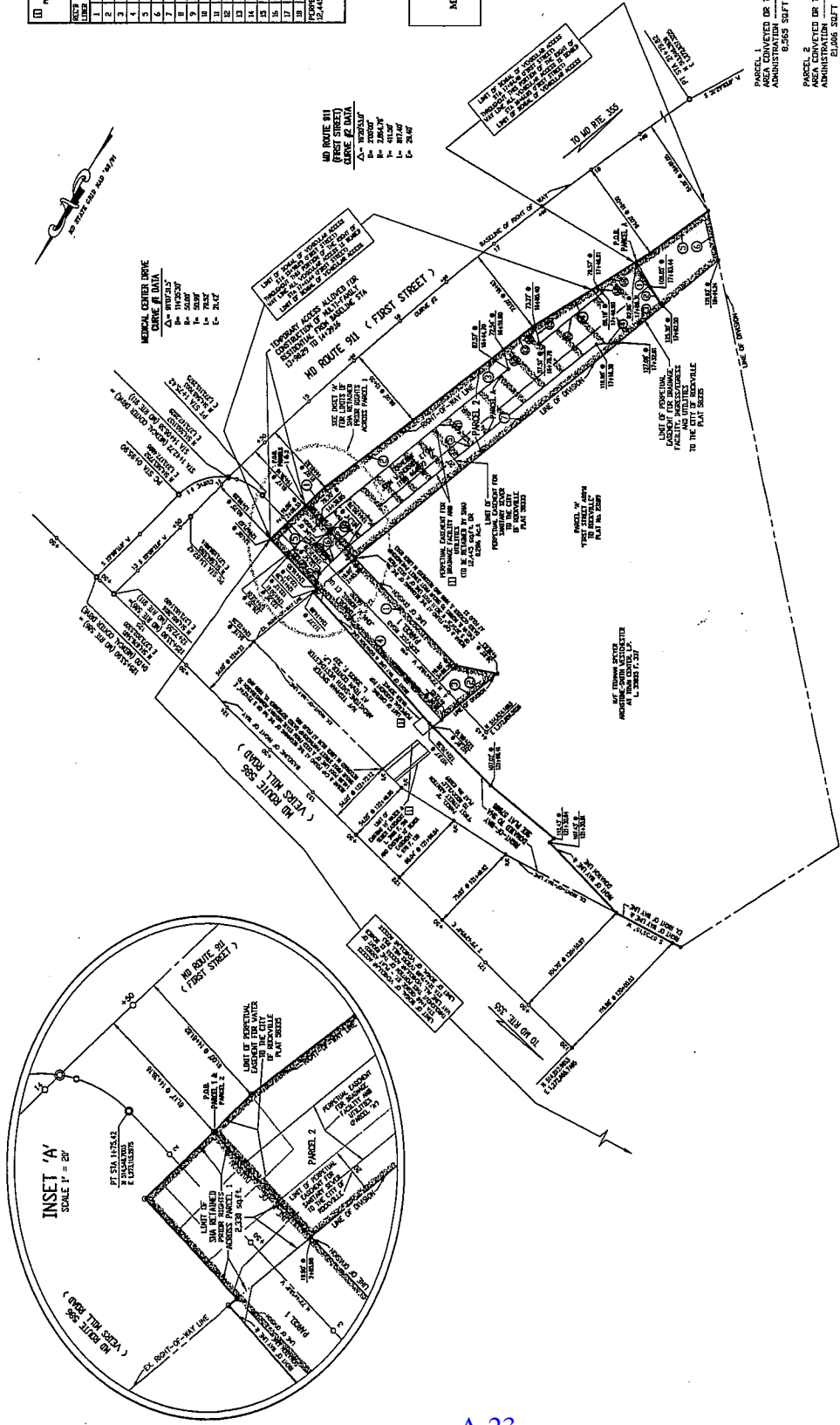
ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

ACRES AND BEARS	
LINE	ACRES
1	0.774547
2	0.774547
3	0.774547
4	0.774547
5	0.774547

EXHIBIT 'B'
TO
MD. 586/MD 911 LAND EXCHANGE AGREEMENT



STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
STATE ROADS COMMISSION

PROJECT NO. 57989
CONSTRUCTION PROJECT NO. 57989
CONSTRUCTION PROJECT NO. 57989

CONTRACTOR: MONTGOMERY
CONTRACTOR: MONTGOMERY
CONTRACTOR: MONTGOMERY

CONTRACTOR: MONTGOMERY
CONTRACTOR: MONTGOMERY
CONTRACTOR: MONTGOMERY

To MD 586 / MD 911 Land Exchange Agreement

**MARYLAND STATE HIGHWAY ADMINISTRATION
PERMIT No. 3M-142-05**

June 13, 2005

**MD 586 / MD 911
Veirs Mill Road / First Street**

PERMISSION IS HEREBY GRANTED TO:

**Archstone-Smith Operating Trust
c/o Ameriton Properties, Incorporated
2345 Crystal Drive, Suite 1001
Arlington, Virginia 22202
Federal ID No. 74-6056896**

so far as the Maryland State Highway Administration has the right and power to grant same, to:

Install two temporary construction entrances, one right-in / right-out permanent entrance, one permanent fire / emergency use entrance and associated streetscape improvement work at the Southwest corner of Veirs Mill Road and First Street.

This permit is governed in strict compliance with the following special and general provisions:

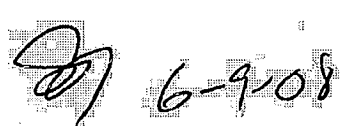
SPECIAL PROVISIONS:

1. The permittee is to notify Mark Loeffler at 301-513-7492, SHA District 3 Permit Inspector, 48 hours in advance of commencing work related to this permit.
2. All work is to be performed in complete accordance with attached plans.
3. All traffic control is to be performed in strict accordance with Maryland State Highway Administration Traffic Control Standards including attached traffic control standard MD TRAFFIC CONTROL STANDARD Nos. 104.04-01 and 104.04-05.
4. The permittee has designated Jeffery Harris at 703-399-3533 or M: 703-628-9995 to be the Project Manager. A Traffic Control Manager will be designated at the Pre-Construction Meeting.
5. Roadway excavation is strictly prohibited.
6. Performance of work authorized by this permit is secured by a Performance Bond no. 104463279 in the amount of \$227,000.00 from the Travelers Casualty and Surety Company of America dated June 3, 2005.

7. The permittee is responsible for notifying the aforementioned SHA Permit Inspector upon completion of activities to schedule a final inspection necessary for release of the security.

8. In addition to the right to perform the work described above, this permit shall grant the Permittee (or any subsequent owner) the right of ingress and egress over, under, and across the land of the State Highway Administration identified on Plat of Subdivision parcels 'A' and 'B' First Street Addition to Rockville, City of Rockville, Rockville Election District 4, Montgomery County MD, Dated November 2004 (Recorded July 6, 2005) Record Plat No. 23189 (Record Plat Number 23189) as "Land to be conveyed to AMERITON Properties" (referred to as the "SHA Land") and the right to construct, all buildings, install, plant, operate, maintain, repair and replace driveway access (including pavement, curbing, gutters and other related improvements), storm water management facilities, landscaping, hardscaping and utilities and other site improvements for the construction and operation of a multi-family project with a structured parking garage as shown on and approved by the City of Rockville by Use Permit USE 2002-00654. The State Highway Administration and the Permittee intend to simultaneously exchange certain land pursuant to a mutually acceptable Memorandum of Understanding between the State Highway Administration and the Permittee. The Memorandum of Understanding will provide, among other things, that the Permittee will convey the land identified on Record Plat No. 23189 as "Land to be conveyed to the State Highway Administration" to the State Highway Administration and the State Highway Administration will simultaneously convey the SHA Land to the Permittee. The Memorandum of Understanding will also provide that the State Highway Administration may reserve certain easement rights over the SHA Land for storm water management facilities as will be more particularly set forth in the Memorandum of Understanding. The provisions of this Special Provision No. 8 shall survive any earlier expiration or termination of this permit. The State Highway Administration shall only have the right to revoke and terminate the rights granted in this Special Provision No. 8 by delivering written notice to Permittee at any time after the date on which the Permittee fails to convey to the State Highway Administration the land identified on SRC Plat No. 56624 and Record Plat No. 23189 as "Land to be conveyed to the State Highway Administration" in accordance with the Memorandum of Understanding, subject to any notice and cure periods set forth therein.

8. This permit shall grant Permittee the right to install and operate a permanent fire and emergency access entrance (mountable curb) along Veirs Mill Road (MD 586) and a temporary construction entrance from Veirs Mill Road (MD 586) and First Street (MD 911) as shown on the attached plans.



GENERAL PROVISIONS**A. PERMIT REQUIREMENTS:**

1. A copy of the master permit, attachments, plans and addenda must be on the job site at all times during the performance of any work covered by this permit.
2. Subject to Special Condition 8, the State Highway Administration reserves the right to modify or revoke any permit, or permit provision at any time.

B. WORKING HOURS:

1. Work is permitted Monday through Friday only. Working hours for roadway and shoulder closures are restricted to between 9:00 AM and 3:00 PM and 9:00 PM and 5:00 AM. Work not adjacent to travel lanes is permitted between 7:00 AM and 7:00 PM. Exceptions to these hours may be specified in the individual permit. All requests for additional special exceptions must be provided in writing to the Office of the District Utility Engineer.
2. Night work is prohibited in residential areas.
3. No work is allowed the day before, on, or after major holidays or holiday weekends. Information regarding specific holiday restrictions can be obtained from the Office of the District Utility Engineer prior to each event. Holiday restrictions may vary by location. Work may also be restricted for special events occurring along specific routes.
4. The State Highway Administration reserves the right to restrict or deny permission to work within our right of way at any time.

C. NOTIFICATIONS:

1. The permittee must notify the State Highway Administration District Utility Engineer's Office at least 48 hours prior to starting any work allowed by this permit.
2. The permittee must notify "Miss Utility" at 1-800-257-7777, 48 hours in advance of starting any work allowed by this permit.
3. The permittee must notify the Maryland Forest Service prior to the start of any work to obtain the necessary Roadside Tree Care Permit. Forest Service representatives can be contacted at 301-464-3065 (Prince George's County) or 410-442-2080 (Montgomery County).

4. The permittee must notify the appropriate SHA Project Engineer 48 hours in advance of starting any work within the limits of an established SHA construction project. All work to be performed within these limits must be coordinated on a daily basis with the SHA Project Engineer or his representative.
5. The permittee is responsible for contacting Mr. Ed Rodenhizer, 410-787-7650, SHA Office of Traffic & Safety, to coordinate any work to be performed near SHA traffic signal equipment.
6. The permittee is responsible to contact Mr. Rick Divelbiss, 301-513-7310, SHA District 3 Maintenance, to coordinate any work to be performed near SHA highway lighting equipment.
7. The permittee must notify Mr. Curt Childress, 410-545-8584, Landscape Operations Division, prior to performing any work that will require replacement of existing trees, shrubs, flowerbeds or other planting materials.
8. In Prince George's and Montgomery Counties, the permittee must acquire the appropriate permits from the Washington Suburban Sanitary Commission prior to performing any work.

D. DESIGN:

1. Design and construction associated with this permit shall be performed in complete conformance with standards, procedures and policies of the following Maryland State Highway Administration publications:
 - a. General Provisions for Construction Contracts
 - b. Standard Specifications for Construction and Materials
 - c. Book of Standards for Highway & Incidental Construction
 - d. Maryland Standard Method of Tests. Materials Manual Laboratory and Field Procedures
 - e. Policy on the Accommodation of Utilities within SHA Right of Way
2. The permittee is responsible for compliance with all laws and regulations including, but not limited to, those of the Federal Highway Administration, Maryland Public Service Commission, National Electric Safety Code, Maryland Occupational Safety and Health Administration, County or Municipal Planning and Zoning Boards, Army Corps of Engineers, Maryland Department of Natural Resources, and Maryland Department of Environment. This permit does not release the permittee from acquiring any additional permits that these or other agencies may require.

3. The permittee is responsible for obtaining required permits prior to performing any work on or adjacent to railroad facilities or right of way thereof.
4. The permittee is responsible for compliance with all state and local sediment control regulations.
5. The State Highway Administration reserves the right to stipulate modifications to the approved construction plans whenever necessary. The permittee shall be entirely responsible for all additional costs and expenses associated with these changes.

E. CONSTRUCTION:

1. All work must be performed in complete conformity with the approved construction plans.
2. All changes, modifications or alterations to the approved construction plans must be submitted in writing to the District Utility Engineer for review and approval.
3. Attachments to bridges and other structures are prohibited unless specifically authorized in individual permit applications.
4. Open cutting of any paved surface is strictly prohibited except when authorized by individual permit applications.
5. The adjustment and or relocation of any public, private or SHA owned facility or utility required by work performed in accordance with this permit will be the complete responsibility of the permittee.
6. All buried facilities must be placed at a minimum depth of three feet below finished grade or proposed final grade. In pavement areas, buried facilities must be placed at least three feet below subgrade. A minimum of three feet of clearance between the top of any buried duct or cable and finished grade or pavement subgrade is to be maintained at all times.
7. All permit activities performed within the limits of any SHA construction or maintenance project must be coordinated with the appropriate SHA Project Engineer or Resident Maintenance Engineer. The permittee is responsible that all work be performed in complete accordance with plans associated with SHA Maintenance or Construction activities.
8. The permittee is responsible to verify the location of all existing buried facilities within or adjacent to the work area to prevent damaging existing utilities.
9. The permittee is responsible for maintaining vertical and horizontal clearances from all existing utility facilities as required by the respective utility agencies.

F. MAINTENANCE OF TRAFFIC:

1. Work Zone Traffic Control is to be in complete conformance with specifications, standards, provisions and policies of the Manual on Uniform Traffic Control Devices (MUTCD), 1988 Edition, Maryland State Highway Standard Specifications for Construction and Materials, Section 104, Maintenance of Traffic and Maryland State Highway Book of Standards for Highway & Incidental Construction.
2. An approved Work Zone Traffic Control Plan is required for all work performed within SHA right of way. This plan must be in complete accordance with Temporary Traffic Control Typical Applications detailed in the State Highway Administration Standards for Highways and Incidental Structures. A copy of the approved Work Zone Traffic Control Plan is to be attached to the permit at all times. All closures are to be performed in complete accordance with the approved Work Zone Traffic Control Plan.
3. All changes, modifications or alterations to the approved Work Zone Traffic Control Plan must be submitted in writing to the District Utility Engineer in advance for review and approval.
4. A SHA certified Traffic Manager must be specifically designated for each permit application. This identification must include a 24 hour contact telephone number. The Traffic Manager will be responsible for ensuring the proper implementation and maintenance of the Work Zone Traffic Control Plan.
5. All traffic control devices including: signs, cones, barricades, drums, warning lights, arrow panels, variable message screens, and tubular markers must meet the "Acceptable" requirements of the American Traffic Safety Services Association (ATSSA), "Quality Standards for Work Zone Traffic Control Devices-1992".
6. All traffic control devices must comply with performance criteria published in the National Cooperative Highway Research Program (NCHRP) Report 350, "Recommended Procedures for the Safety Performance Evaluation of Highway Features."
7. Traffic Control signs or devices identified as unsatisfactory by the District Utility Engineer or his representative must be replaced immediately.
8. The permittee must comply with all District 3 Lane Closure Notification Procedures.
9. Travel lanes and shoulders must be restored immediately in the event of precipitation. Lane and shoulder closures on wet roadways are strictly prohibited.

10. Travel lanes and shoulders must be restored immediately in the event of accident or emergency within or adjacent to the work area.
11. All lane and shoulder closures will be cleared immediately at the specific direction of any representative of the Maryland State Highway Administration.
12. The permittee is responsible to coordinate all lane closure activities with adjacent contractors.
13. When a lane, ramp or shoulder closure is in effect, work must begin within one hour after the lane is closed. Once work is completed, travel lanes and shoulders are to be restored immediately.
14. The permittee is required to notify TOC-3 (301-345-7130) of all lane, ramp and shoulder closures on Interstate Highways one hour prior to closure, and within 10 minutes of restoring any travel lane, ramp or shoulder.
15. Full or temporary roadway closures are not permitted without prior approval of the District Utility Engineer.
16. The permittee is responsible for coordinating Maryland State Police assistance for any temporary roadway closure. No temporary roadway closure can exceed 15 minutes in duration.
17. The permittee must provide a minimum of two Variable Message Screens for any temporary roadway detour or roadway closure. Screen messages must be approved by the District Utility Engineer prior to display.
18. No pavement drop off adjacent to or within travel lanes is permitted to exceed two (2) inches at any time.
19. The delay to motorists travelling through work zone lane, ramp or shoulder closures is not to exceed fifteen (15) minutes.
20. No travel lane shall be reduced to less than ten (10) feet in width at any time.
21. Prior to reopening, all travel lanes and shoulders must be completely cleared of all materials, equipment and debris.
22. Any mud, material or debris, tracked or spilled on any roadway surface is to be promptly removed to eliminate any potential hazard.
23. No metallic tread equipment shall be driven or towed on any paved roadway surface at any time.

24. No equipment or material may be stored within 30 feet of the travel roadway edge during non-working hours unless it is located behind guardrail or concrete traffic barrier. No storage location may obstruct or reduce sight distances, obscure roadway signing or interfere with positive drainage.
25. Private automobiles and nonessential construction vehicles will not be parked on SHA right of way. The permittee is responsible for the transportation of workers from a safe parking site procured by the permittee.
26. The use of emergency crossovers is strictly prohibited.
27. Pedestrian traffic is to be maintained through or around work areas at all times.
28. All flagging operations are to be performed by individuals who have successfully completed SHA's Approved Flagger training course. Each flagger is to have in their possession an approved SHA flagger training card at all times. Flagging is to be conducted utilizing stop/slow paddles in complete accordance with Part VI Section 6F of the current edition of the Manual on Uniform Traffic Control Devices. Flaggers are to be appropriately attired at all times. Flaggers must wear a reflective vest at all times while flagging.
29. Precautions shall be taken, particularly in freezing temperatures, to keep water off travel lanes.
30. Vehicular access to private and public driveways, entrances and roadways is to be maintained at all times.
31. Access to fire hydrants, firehouses, hospitals and mailboxes is to be maintained at all times.

G. EROSION & SEDIMENT CONTROL:

1. All erosion and sediment control measures and devices shall be constructed in conformance with the 1994 Maryland Standards and Specifications for Soil Erosion and Sediment Control published by the Maryland Department of the Environment, Water Management Administration, and all revisions thereof.
2. The permittee is required to install and maintain all sediment control devices specified in other permits which have or should have been obtained by the permittee.
3. All disturbed areas are to be temporarily seeded and mulched within 48 hours upon completion of excavation activities.
4. Restoration and permanent stabilization of all areas is to be completed within seven days of the completion of excavation activities.

5. The discharge of any material or liquid, other than clean water, into any drainage facility is strictly prohibited.
6. The discharge of any material or liquid into Waters of the United States is strictly prohibited.
7. Stabilized construction entrances are required for access to work areas adjacent to roadways.
8. Any work or activity within 25 feet of any wetland area is strictly prohibited.
9. All dewatering is to be performed utilizing an approved dewatering device to ensure the removal of sediment from effluent.
10. All surface drains, swales and ditches are to be maintained free of debris at all times.

H. EXCAVATION:

1. All trenching is to be performed in complete accordance with all requirements set forth by Maryland Occupational Safety and Health regulations.
2. Where the distance between of the roadside edge of any excavation is less than the depth of excavation of the excavation tight sheeting will be required. The roadside face must be tightly sheeted and braced securely against skeleton sheeting on the opposite or far side of the excavation.
3. All sheeting must be completely removed upon the completion of excavation and backfill activities.
4. Cuts or excavations will not be permitted to remain open at the end of a work shift, or when work is not actively in progress. In the event that excavation cannot be completed within a single shift, the excavation shall be covered with steel plates, or protected behind concrete barrier wall. The perimeter of all open excavations shall be secured using four foot high orange safety fencing suitably posted.
5. All spoil material is to be completely removed from SHA right of way.
6. All backfill is to be placed in horizontal layers not to exceed six inches in depth. Each layer is to be uniformly tamped and compacted by means of a mechanical or vibratory compacting device.
7. The permittee will be responsible for repairing any damage due to settlement of backfill for a period of one year after the release of permit.

8. Tunneling, jacking & boring, directional boring and blasting are strictly prohibited.

I. PAVEMENT EXCAVATION AND RESTORATION:

1. All excavation across pavement areas is to be full depth sawcut prior to removal.
2. Trenches across roadways and shoulders shall be backfilled entirely with graded aggregate. All aggregate backfill is to be placed in horizontal layers not to exceed six inches in depth. Each layer is to be uniformly tamped and compacted by means of a mechanical or vibratory compacting device.
3. Pavement repairs are to be constructed in accordance with typical sections indicated in the Maryland State Highway Administration Book of Standards for Highway & Incidental Construction, Standard Numbers MD 577.02, 577.03, 577.04, 577.05, 577.06 and 578.01 and Section 522, Portland Cement Concrete Repairs, of the Maryland State Highway Administration Standard Specifications for Construction Materials.
4. Pavement repairs must extend a minimum of two feet beyond the limits of the trench excavation on each side. All pavement repairs shall be a minimum of six feet in width.
5. All pavement repairs are to be composed of 10 inches of SHA Mix No. 6 Portland cement concrete overlaid with two inches of hot mix asphalt surface course.
6. Pavement repairs to full depth asphalt shoulders are to be composed of a variable depth HMA base covered with 2 inches of HMA surface SC. The total thickness of HMA used for shoulder repairs must be equal to or greater than the thickness of the existing shoulder pavement.
7. Pavement repairs to aggregate and surface treated shoulders are to be composed of 12 inches of dense graded aggregate placed and compacted in two horizontal lifts of thickness not exceeding six inches.
8. Pavement repairs to side roads are to be constructed in accordance with typical section indicated in the Maryland State Highway Administration Book of Standards for Highway & Incidental Construction, Standard Number MD 578.01 and Section 522, Portland Cement Concrete Repairs, of the Maryland State Highway Administration Standard Specifications for Construction Materials.
9. Pavement repairs to existing driveway entrances are to be composed of material in type and thickness identical to that which existed prior to excavation. Concrete driveway aprons shall be required to be replaced using SHA Mix No. 6.

10. Temporary pavement repairs will be permitted with the permission of the District Utility Engineer. Temporary repairs are to consist of three, 3 inch layers of hot mix asphalt base, individually placed and compacted.
11. Final pavement restoration is to occur within 30 days of the completion of temporary pavement repairs.
12. Test pits conducted in pavement areas shall be performed by vacuum core drilling a cylindrical area of diameter not to exceed 10 inches. Upon completion, the test hole is to be backfilled with sand up to the final one foot, which is to be composed of 10 inches of Portland cement concrete covered with 2 inches of HMA surface SC.
13. "UNEVEN PAVEMENT" warning signs, MUTCD W8-8(2) are to be installed in advance of all milled surfaces for each direction of travel.
14. Uneven joints where traffic can be anticipated to cross are to be tapered with a minimum of two feet of a bituminous concrete product for the entire width of the travel lane.
15. Exposed utility surface structures in milled areas are to be protected around their entire circumference with a minimum taper of two feet of a bituminous concrete product.
16. Traffic markings and symbols are to be replaced in milled and resurfaced areas prior to the reopening of pavement to traffic.
17. Milled surfaces are to be resurfaced within seven days.
18. The following provisions will apply whenever steel plates are used to protect pavement excavations:
 - a. The District Utility Engineer shall be notified at least 48 hours in advance of the placement.
 - b. Steel plates are not to remain in place longer than seven days without prior permission.
 - c. "STEEL PLATES" warning signs, MUTCD W95-5(1), are to be post mounted at an advance location.
 - d. The identification of the Utility Company, contact individual and 24 hour telephone number shall be clearly marked on the rear face of the "STEEL PLATES" warning sign.

- e. From October through April, steel plates shall be additionally identified by the placement of a grade stake located immediately adjacent to the pavement edge. The stake is to be at least three feet high and painted international orange.
- f. Steel plates are to be at least one inch thick and securely held in place with pins installed on all corners.
- g. Steel plates must be large enough to allow a minimum of one foot of bearing on all four sides of the pavement surrounding the excavation. In the event that more than one plate is required, one foot of bearing will be allowed on three sides of the plate.
- h. The use of a bituminous concrete product is required on all exposed edges of the plates to ensure a smooth transition from the pavement to the surface of the steel plate. The material must extend a minimum distance of one foot to provide a suitable taper.
- i. Steel plates are to be monitored and maintained by the permittee at least twice daily, seven days a week.
- j. The identification of the Utility Company must be clearly marked in orange paint on the surface of the steel plate or adjacent roadway.

ROADSIDE RESTORATION:

- 1. The permittee will be responsible for replacing, repairing or restoring anything removed or damaged as a result of any activity performed under this permit including but not limited to all curbs, medians, gutters, drains, fences, sidewalks, steps, rails, walls, signs, structures, crosswalks, etc. to their original condition to the complete satisfaction of the State Highway Administration.
- 2. Sidewalk repairs shall consist of 4 inches of SHA Mix No. 2 placed in grade and alignment to meet the existing sidewalk, for the entire length of each affected block, typically five feet in length. All sidewalk ramps are to be replaced to their original condition.
- 3. Existing concrete curb or combination curb and gutter is to be replaced using SHA Mix No. 2 to its original condition in accordance with the Maryland State Highway Administration Book of Standards for Highway & Incidental Construction, Standard Number MD 620.02.
- 4. Existing bituminous curb is to be replaced to its original condition in accordance with the Maryland State Highway Administration Book of Standards for Highway & Incidental Construction, Standard Number MD 615.01.

5. Any removal, adjustment or relocation of W-Beam Traffic Barrier guardrails, posts, or end treatments is strictly prohibited except when authorized by individual permit applications.
6. Fencing removed for construction is to be restored to its original condition. All fence openings shall be completely restored prior to the end of each working shift.
7. Delineators removed for construction must be replaced to their original height and position upon the immediate completion of activities.

K. LANDSCAPE RESTORATION:

1. Landscape restoration is to begin immediately upon the completion of excavation activities.
2. Topsoil will be salvaged or replaced to a minimum depth of two inches.
3. All disturbed areas are to be topsoiled, fertilized, seeded and mulched in accordance with Maryland State Highway Administration Standard Specifications for Construction and Materials Section 705, Turf Establishment.
4. Solid sodding is required in all residential areas.
5. The permittee is responsible for all watering necessary to ensure the adequate reestablishment of turf and replacement planting material.
6. All trees, shrubs, flower beds and other existing planting material disturbed by, or a result of construction under this permit will be replaced in kind to the complete satisfaction of the Maryland State Highway Administration.
7. The permittee must coordinate the replacement of all planting material with a representative of the State Highway Administration Office of Environmental Design, Landscape Operation Division at 410-554-8584.

L. TRAFFIC MARKINGS, SIGNING, LIGHTING AND SIGNALIZATION:

1. Traffic signs are not to be removed or relocated without permission of the District Utility Engineer.
2. The permittee is to exercise extreme caution when in the vicinity of signalized intersections so as to not damage equipment associated with traffic signalization.
3. The permittee will be responsible for ascertaining the location of all loop detection equipment prior to performing roadway excavation in the proximity of signalized intersections.
4. All pavement markings and symbols shall be completely replaced immediately upon the completion of milling or resurfacing, prior to the reopening to traffic.
5. The permittee will be responsible for ascertaining the location of electrical services and feeds to street lighting.

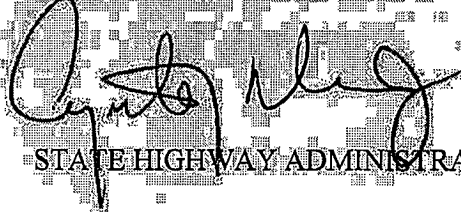
M. PERMIT REGULATIONS:

1. The permittee shall indemnify and save harmless the State and all of its representatives from all suits, actions, or claims of any character brought on account of any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding the work or through the use of unacceptable materials in the construction of the improvement, or on account of any act or omission by the said permittee, or as a result of faulty, inadequate, or improper temporary drainage during construction, or on account of the use, misuse, storage or handling of explosives, or on account of any claims or amounts recovered for any infringement of patent, trademark or copyright, or from any claims or amounts arising or recovered under the Workmen's Compensation Laws, or any other State or local law, bylaw, ordinance, regulation, order or decree whether by himself or his employees or subcontractors. The permittee shall be responsible for all damages or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct, in the manner or method of executing said work satisfactorily or due to the nonexecution of said work or at any time due to defective work or materials and said responsibility shall continue until the improvement shall have been completed and accepted.
2. The permittee shall indemnify and save harmless the State and all of its representatives from all suits, actions, or claims of any character brought on account of any injuries or damages sustained by any person or property arising from the construction, placement or existence of any of the utility's facilities placed on or near any property, road or highway that is owned and/or maintained by the State Highway Administration regardless of when the utility facilities were

- placed, constructed or replaced, including those facilities installed prior to the issuance of this permit.
3. The permittee shall comply with all Federal, State, and local laws, regulations and ordinances applicable to their activities.
 4. The State Highway Administration reserves the right to assign inspection forces while work is being accomplished within our right of way at the expense of the permittee.
 5. This permit is not assignable, except that permittee may assign this permit to a related entity or to a third party as part of a transfer or conveyance of the property to such related party or a third party. The use of this permit by any party, or for any purpose, not specifically indicated within the permit shall constitute the immediate revocation of the permit.
 6. The State Highway Administration reserves the right to halt any operation that can be considered to be in any manner detrimental to the safe operation of our highway system.
 7. The State Highway Administration reserves the right to stop work on authorized permits in the event that the permittee fails to comply with any condition of the permit.
 8. Subject to Special Condition 8, permission, when granted, to place utility facilities within the limits of our right of way is revocable at any time by the State Highway Administration.
 9. In the event that future road improvements require the removal, relocation and/or adjustment of facilities installed under this permit, the entire cost of said work shall be borne entirely by the permittee.
 10. The permittee shall be responsible to respond to, and correct any complaints regarding any work performed under this permit upon notification.
 11. All work performed under this permit shall be done under the supervision and to the complete satisfaction of the Maryland State Highway Administration. The State Highway Administration reserves full control over said roads, highways and right of way and the subject matter of this permit.
 12. The permittee is responsible for providing effective on site supervision at all times to ensure compliance with all plan and permit specifications, regulations and conditions.
 13. All work areas are to be continuously maintained in a neat and clean condition.

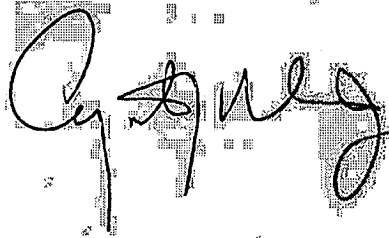
14. The permittee will be responsible for maintaining utility facilities installed within State Highway Administration right of way in safe working condition.
15. The permittee will be responsible for the cost of any repairs to roadway embankments, drainage facilities, or any other facilities owned or maintained by the State Highway Administration should they become necessary or caused by the construction, existence or failure of this utility or utility facility.
16. Upon completion of work, State Highway Administration right of way affected by this permit shall be restored to its original condition.
17. It is agreed and understood that the issuance of this permit will be construed to indicate complete acceptance of the terms and specifications outlined herein.

DISTRICT UTILITY ENGINEER



STATE HIGHWAY ADMINISTRATION

Please note that all changes and inserts made on
 Page 2 and 16 of this document were made by
 Augustine J. Rebish, Jr., District Utility Engineer
 District 3, SHA



6-9-08

[illegible]

EXHIBIT "E"

ATTACH A

To MD 586 / MD 911 Land Exchange Agreement


**PERPETUAL EASEMENTS TO BE CONVEYED
BY THE
STATE HIGHWAY ADMINISTRATION –
STATE ROADS COMMISSION
OF MARYLAND
TO
THE CITY OF ROCKVILLE**

RIGHT OF WAY PROJECT No.: M 808-001-371

RIGHT OF WAY PROJECT: Viers Mill Road – MD Route 586 from
MD Route 355 to MD Route 28


ITEMS Nos.: 66592 & 66593

.....

THE GRANTORS DO HEREBY GRANT, unto The City of Rockville perpetual easements and being further designated in three (3) parts as **PARCEL A**, a Perpetual Easement For Sanitary Sewer, **PARCEL B**, a Perpetual Easement For Drainage Facility, Ingress/Egress and Utilities and **PARCEL C**, a Perpetual Easement For Water and appurtenances thereto belonging or in anywise appertaining to the parcels of land situate, lying and being in Montgomery County, Maryland, as shown shaded thus:  on the State Highway Administration – State Roads Commission of Maryland **Plat Numbered 58335**, filed for record with and electronically recorded by the Maryland State Archives; being more particularly described in three (3) parts as follows:

PARCEL 'A':

BEGINNING FOR THE FIRST (1st) at a point situated 24.79 feet measured at right angles to the right of station 2+72.23 of the Base Line of right-of-way of Medical Center Drive (Service Road), as delineated on State Highway Administration – State Roads Commission of Maryland Plat No. **58335**, said point also lying on the northerly or South 71°50'29" East, 144.95 foot plat line of Parcel 'A', as shown on a Plat of Subdivision entitled, "Plat of Subdivision, Parcels 'A' and 'B', First Street Addition To Rockville" recorded among the Land Records of Montgomery County, Maryland as **Plat No. 23189**, 9.96 feet from the southeasterly end there; thence running with part of said Plat line and with the outline of said Parcel 'A' and binding along the southwesterly right-of-way line of Viers Mill Road (MD Rte. 586), the following three (3) courses: viz, (1) **South 71°50'29" East, 9.96 feet**, (2) **South 20°53'27" West, 4.38 feet**, (3) **South 73°45'47" East, 19.95 feet**; thence leaving aforesaid outline of Parcel 'A' - First Street Addition To Rockville and the southerly right-of-way of Viers Mill Road (MD Rte. 586) and running in, through, over and across Parcel 'A' - First Street Addition To Rockville, the following three (3) courses: viz, (4) **South 20°53'27" West, 371.76 feet**, (5) **North 59°48'13" West, 1.63 feet**, (6) **North 63°37'55" West, 18.48 feet** to a point, said point situated 125.30 feet measured at right angles to the right of station 17+82.50 of the Base Line of Right of Way of First Street - MD Rte No. 911, as shown on said SRC Plat Numbered **58335**; thence continuing in, through, over and across Parcel 'A' - First Street Addition To Rockville, the following two (2) courses, (7) **North 20°53'18" East, 360.30 feet**, (8) **North 19°04'54" West, 15.29 feet** to the place of beginning.

CONTAINING: 7,461 sq. ft. or 0.171 of an acre plus or minus, being furthermore designated as Parcel A – Perpetual Easement for Sanitary Sewer to the City of Rockville and shown shaded thus:  on the State Highway Administration – State Roads Commission of Maryland Plat No. **58335**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Denial of Access provisions of the State Highway Administration – State Roads Commission of Maryland, as shown on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives


BEING PART OF THE LAND which by deed dated October 1, 1979 was conveyed by John W. Norris, et al to the State of Maryland to the use of the State Highway Administration of the Department of Transportation, recorded in Liber 5408 Folio 046, among the Land Records of Montgomery County, Maryland.

BEING PART OF THE LAND which by deed dated June 4, 1979 was conveyed by John W. Norris, et ux to the State of Maryland to the use of the State Highway Administration of the Department of Transportation, recorded in Liber 5331 Folio 658, among the Land Records of Montgomery County, Maryland.

BEING PART OF THE LAND designated as Parcel 'A', and delineated on a Plat of Subdivision entitled, "Plat of Subdivision, Parcels 'A' and 'B', First Street Addition To Rockville" recorded among the Land Records of Montgomery County, Maryland as **Plat No. 23189**.

PARCEL 'B':

BEGINNING FOR THE SECOND (2nd) at a point situated 79.09 feet measured at right angles to the right of station 17+41.44 of the Base Line of First Street – MD Route 911, as delineated on State Highway Administration – State Roads Commission Plat Numbered **57989**, said point also lying on the easterly or South 28°14'19" West, 114.32 foot line of said Parcel 'A', as shown on a Plat of Subdivision entitled, "Plat of Subdivision, Parcels 'A' and 'B', First Street Addition To Rockville" recorded among the Land Records of Montgomery County, Maryland as **Plat No. 23189**, 57.21 feet from the northeasterly end thereof; thence running with part of said easterly Parcel line and binding along the northwesterly right-of-way line of said First Street (MD Rte. 911): (1) **South 28°14'19" West, 41.92 feet**; thence leaving the aforesaid easterly line of Parcel 'A' - First Street Addition To Rockville and said First Street right-of-way line and running in, through, over and across the aforesaid Parcel 'A' - First Street Addition To Rockville, the following three (3) courses: viz, (2) **North 62°12'10" West, 42.67 feet**, (3) **North 20°53'27" East, 34.06 feet**, (4) **South 71°58'07" East, 47.78 feet** the place of beginning.

CONTAINING: 1,707 sq. ft. or 0.039 of an acre plus or minus, being furthermore designated as Parcel B – Perpetual Easement for Drainage Facility, Ingress/Egress and Utilities to the City of Rockville and shown shaded thus:  on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **58335**, filed for record with and electronically recorded by the Maryland State Archives.


THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Denial of Access provisions of the State Highway Administration – State Roads Commission of Maryland, as shown on the State Highway Administration – State Roads Commission of Maryland Plat Numbered **57989**, filed for record with and electronically recorded by the Maryland State Archives

BEING PART OF THE LAND which by deed dated October 1, 1979 was conveyed by John W. Norris, et al to the State of Maryland to the use of the State Highway Administration of the Department of Transportation, recorded in Liber 5408 Folio 046, among the Land Records of Montgomery County, Maryland.

BEING PART OF THE LAND designated as Parcel 'A', and delineated on a Plat of Subdivision entitled, "Plat of Subdivision, Parcels 'A' and 'B', First Street Addition To Rockville" recorded among the Land Records of Montgomery County, Maryland as **Plat No. 23189**.

PARCEL 'C':

BEGINNING FOR THE THIRD (3rd) at a point situated 10.55 feet measured at right angles to the right of station 2+06.01 of the Base Line of Medical Center Drive (Service Road), as delineated on State Highway Administration – State Roads Commission Plat No. **58335**, said point also lying on the easterly or South **16°51'50" West**, 40.00 foot line of Parcel 'A', as shown on a Plat of Subdivision entitled, "Plat of Subdivision, Parcels 'A' and 'B', First Street Addition To Rockville" recorded among the Land Records of Montgomery County, Maryland as **Plat No. 23189**, 9.57 feet from the northeasterly end thereof; thence running with part of said line and with the easterly outline of said Parcel 'A' - First Street Addition To Rockville and binding along the northwesterly right-of-way line of said First Street - MD Rte. 911, the following two (2) courses: VIZ, (1) **South 16°51'50" West, 30.43 feet**, (2) **South 16°28'04" West, 21.88 feet** to a point lying 61.00 feet angle right of baseline station 14+61.82 of First Street Maryland Route No. 911, as shown on the aforesaid SRC Plat Numbered 58335; thence leaving said easterly Plat outline and said northwesterly right-of-way of First Street and running in, through, over and across the aforesaid Parcel 'A' - First Street Addition To Rockville, the following three (3) courses, viz: (3) **North 68°55'30" West, 28.65 feet**, (4) **North 16°19'17" East, 49.89 feet**, (5) **South 73°45'47" East, 28.89 feet** to the place of beginning.

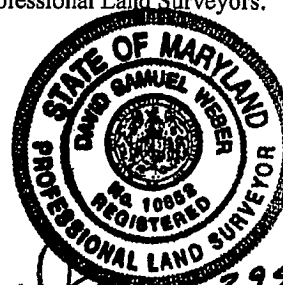
CONTAINING: 1,466 sq. ft. or 0.034 of an acre plus or minus, being furthermore designated as Parcel C – Perpetual Easement for Water to the City of Rockville and shown shaded thus:  on the State Highway Administration – State Roads Commission of Maryland Plat No. **58335**, filed for record with and electronically recorded by the Maryland State Archives.

THE ABOVE DESCRIBED PARCEL OF LAND being subject to the Denial of Access provisions of the State Highway Administration – State Roads Commission of Maryland, as shown on the State Highway Administration – State Roads Commission of Maryland Plat No. **57989**, filed for record with and electronically recorded by the Maryland State Archives.

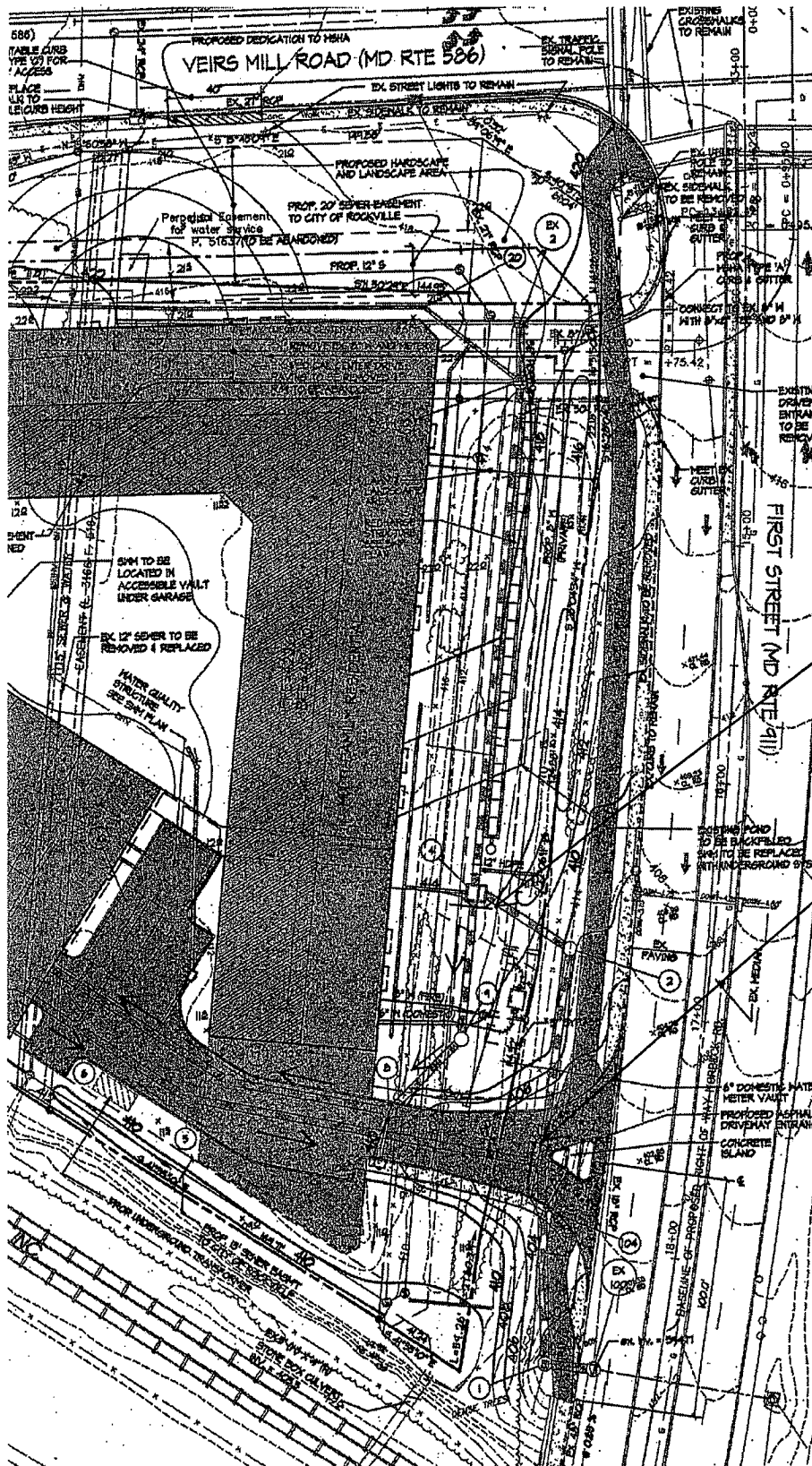
BEING PART OF THE LAND which by deed dated October 1, 1979 was conveyed by John W. Norris, et al to the State of Maryland to the use of the State Highway Administration of the Department of Transportation, recorded in Liber 5408 Folio 046, among the Land Records of Montgomery County, Maryland.

BEING PART OF THE LAND designated as Parcel 'A', and delineated on a Plat of Subdivision entitled, "Plat of Subdivision, Parcels 'A' and 'B', First Street Addition To Rockville" recorded among the Land Records of Montgomery County, Maryland as **Plat No. 23189**.

The above description has been prepared under my responsible charge and is compliant with the regulations of the Maryland Minimum Standards of Practice for Professional Land Surveyors.



To MD 586 / MD 911 Land Exchange Agreement



Beginning of
Privately owned
SWM system

End of Privately
owned SWM
system